

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

THE ATTIC TENT, INC.)

Plaintiff,)

v.)

JERRY L. COPELAND and
PROGRESSIVE ENERGY
SOLUTIONS, INC.)

Defendants.)
_____)

Case No.: 3:06-CV-66-C

**DEFENDANTS' MOTION TO RECUSE
PLAINTIFF'S ATTORNEY JASON
MILLER AND REQUEST FOR HEARING**

Defendants, Jerry L. Copeland and Progressive Energy Solutions, Inc. (hereinafter "Defendants"), by and through their undersigned counsel, request this Honorable Court to recuse Jason Miller, Esq. from representation of Plaintiff in the instant suit due to an attorney-client relationship between Jason Miller and the Defendants. Defendants' Motion is supported by the attached Memorandum of Fact and Law.

Respectfully submitted,

Dated: June 26, 2006

s/ Gregory R. Everman
Gregory R. Everman (NC Bar No. 27,554)
Attorney for Defendants
EVERMAN LAW FIRM, PA
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Charlotte, NC 28210
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MEMORANDUM

I. BACKGROUND AND ARGUMENT

On or about January 2006, Defendants had communications with Attorney Jason Miller regarding the instant suit. At that time, Jason Miller was a partner at Miller & Bernard, PLLC.

On or about June 19, 2006, Jason Miller joined the law firm of Dougherty/Clements, which represents Plaintiff in the instant suit.

On or about June 22, 2006, Jason Miller entered an appearance in the instant suit.

Based on communications between Defendants and Jason Miller, the possibility of an attorney-client relationship exists which turns on facts that need to be determined at a hearing. Accordingly, Defendants request that Jason Miller be recused from the instant suit until this matter is heard and determined by this honorable court.

Recusing Jason Miller has no prejudicial effect on Plaintiff because Plaintiff engaged Dougherty/Clements prior to Jason Miller's employment, Plaintiff's existing counsel Russell Racine and Christopher Bernard have principally represented Plaintiff and can continue to do so, and Dougherty/Clements has still other attorneys who may represent Plaintiff as needed.

Respectfully submitted,

Dated: June 26, 2006

s/ Gregory R. Everman
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Plaintiff,)	Case No.: <u>3:06-CV-66-C</u>
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)	
JERRY L. COPELAND and)	CERTIFICATE OF SERVICE
PROGRESSIVE ENERGY)	
SOLUTIONS, INC.)	
)	
Defendants.)	
_____)	

Pursuant to Rule 5(b) of the Federal Rules of Civil Procedure, I certify that on 26 June, 2006, I served a copy of the below listed documents upon the other party in this action through the CM/ECF system at rracine@worldpatents.com.

Documents Served:

1. Defendants' Motion to Recuse Plaintiff's Attorney Jason Miller.

Respectfully submitted,

s/ Gregory R. Everman
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